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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

FILED 07 MJ 2981
2007 DEC 26 PM 12:43
CLERK U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA

Plaintiff

v.

Juan REYES TOVAR
AKA: Jose Luis YNOSTROS
Juan REYES MARTINEZ

) Magistrate Docket No. 26
) COMPLAINT FOR VIOLATION OF:
)
) TITLE 8 U.S.C. § 1326
) Attempted Reentry After Deportation
)
) TITLE 18 U.S.C. § 1546
) Fraud and Misuse of Visas, Permits,
) and Other Documents
)
)
)

The undersigned complainant, being duly sworn, states:

Count 1

On or about December 23, 2007, within the Southern District of California, defendant Juan REYES TOVAR, AKA Jose Luis YNOSTROS, AKA Juan REYES MARTINEZ, an alien, who previously had been excluded, deported and removed from the United States to Mexico, attempted to enter the United States with the purpose; i.e. conscious desire, to enter the United States at the San Ysidro Port of Entry, without the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8, United States Code, Section 1326

Count 2

On or about December 23, 2007, within the Southern District of California, defendant Juan REYES TOVAR, AKA Jose Luis YNOSTROS, AKA Juan REYES MARTINEZ, in applying for entry into the United States at the San Ysidro Port of Entry did attempt to use or possess a document prescribed by statute or regulation for entry into or as evidence of authorized stay or employment in the United States knowing it to have been procured by fraud or unlawfully obtained, to wit, US Passport number 038412808, bearing the name Jose Luis YNOSTROS; in violation of Title 18, United States Code, Section 1546(a).

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.



Maurilio M. Rojano-Garcia
Special Agent
U.S. Department of State
Diplomatic Security Service

SWORN AND SUBSCRIBED TO before me

This 26 day of December, 2007.

UNITED STATES MAGISTRATE JUDGE

PROBABLE CAUSE STATEMENT & STATEMENT OF FACTS

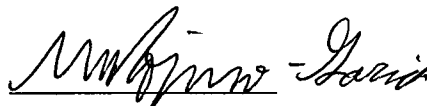
I, Maurilio M. Rojano-Garcia, being duly sworn, declare under penalty of perjury that the following statement is true and correct:

1. I am a Special Agent (SA) with the U.S. Department of State, Diplomatic Security Service (DSS) assigned to the San Diego, CA Resident Office. I have been so employed for five years and have investigated numerous violations involving the false application for and misuse of United States Passports and Visas.
2. During the performance of my duties, I have obtained evidence that Juan REYES TOVAR (DEFENDANT), aka Jose Luis YNOSTROS possessed and/or used a US passport that was unlawfully obtained, and applied for reentry into the United States after having been deported. This Affidavit is made in support of a complaint against DEFENDANT for violation of Title 18, U.S.C., Section 1546, Fraud and Misuse of Visas, Permits, and Other Documents; Title 8 U.S.C. 1326, Attempted Reentry After Deportation.
3. On 12/23/2007, at approximately 0120 hours, DEFENDANT presented himself to a Department of Homeland Security, Customs and Border Protection (CBP) Officer at the vehicle lines of the San Ysidro Port of Entry, to apply for admission into the United States. DEFENDANT identified himself with US Passport number 038412808, bearing the name Jose Luis YNOSTROS, DPOB 02/20/1959, California U.S.A.,. CBP Officer queried the passport being presented and received a computer generated lookout stating the passport was fraudulently obtained. DEFENDANT was referred for secondary inspection.
4. On 12/23/2007, a CBP Officer conducted a secondary inspection of DEFENDANT. Fingerprint checks revealed that DEFENDANT had a FBI record under the name Juan REYES MARTINEZ in NCIC for 5 previous arrests. DHS record checks revealed that DEFENDANT had been once deported. DEFENDANT remained in the secondary inspection area.
5. On 12/23/2007, at approximately 0245 hours, the Affiant was notified by the CBP from the San Ysidro POE, of the case.
6. On 12/23/2007, at approximately 0445 hours, DEFENDANT was retrieved from secondary inspection and was brought to an upstairs interview room. The Affiant, assisted by a CBP officer, obtained consent from DEFENDANT to have his interview audio and video taped. DEFENDANT read his Miranda warning aloud in English from a written copy. He indicated that he understood and waived his right to counsel. He admitted that his true name was Juan REYES TOVAR, DPOB, 10/06/1958, Michoacan, Mexico. He stated that he was a citizen of Mexico and not a citizen of the United States.
7. DEFENDANT admitted that in or about 1993 while illegally living in the United States he was given the birth certificate bearing the name Jose Luis YNOSTROS from a distant family member and used it to apply for and obtain a California Driver's License and US Passport number 038412808 under the name Jose Luis YNOSTROS with the intention to use the issued Passport to travel to and from Mexico. DEFENDANT stated that on 12/23/2007 he used passport issued to him under the name Jose Luis YNOSTROS to cross the International Border from Mexico to the United States. DEFENDANT said that when he drove up to the inspection booth, DEFENDANT gave the CBP officer US passport number 038412808, bearing the name Jose Luis YNOSTROS, as his identification document, to apply for admission to the United States.

8. DEFENDANT acknowledged knowing that the passport he presented was procured by means of a false claim or procured by fraud or unlawfully, and that it was a violation of US law to obtain a US passport with the identity of another and to use a fraudulently obtained passport.

9. DEFENDANT made a written statement acknowledging his true name and that he unlawfully obtained a US passport. DEFENDANT acknowledged using the passport and that he knew it was illegal for a person who has been deported from the United States to attempt to reenter.

10. On the basis of the facts presented in this probable cause statement consisting of 2 pages, I find probable cause to believe that the defendant named in this probable cause statement committed the offenses on 12/23/2007 - in violation of Title 18, United States Code, Section 1546(a): Fraud and Misuse of Visas, Permits, and Other Documents - when he knowingly used the US Passport that was unlawfully obtained in order to gain admission into the United States; Title 8 United States Code 1326, Attempted Reentry After Deportation - when he, an alien, who previously had been excluded, deported and removed from the United States to Mexico, attempted to enter the United States with the purpose; i.e. conscious desire, to enter the United States at the San Ysidro Port of Entry, without the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States.



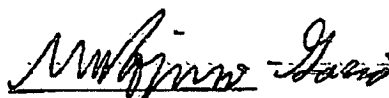
Maurilio M. Rojano-Garcia
Special Agent
U.S. Department of State
Diplomatic Security Service

UNITED STATES MAGISTRATE JUDGE

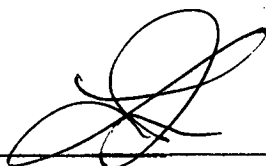
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10. On the basis of the facts presented in this probable cause statement consisting of 2 pages, I find probable cause to believe that the defendant named in this probable cause statement committed the offenses on 12/23/2007 - in violation of Title 18, United States Code, Section 1546(a): Fraud and Misuse of Visas, Permits, and Other Documents - when he knowingly used the US Passport that was unlawfully obtained in order to gain admission into the United States; Title 8 United States Code 1326: Attempted Reentry After Deportation - when he, an alien, who previously had been excluded, deported and removed from the United States to Mexico, attempted to enter the United States with the purpose; i.e. conscious desire, to enter the United States at the San Ysidro Port of Entry, without the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States.



Maurilio M. Rojano-Garcia
Special Agent
U.S. Department of State
Diplomatic Security Service



UNITED STATES MAGISTRATE JUDGE

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